

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GAETANO D'ATTORE,

Plaintiff,

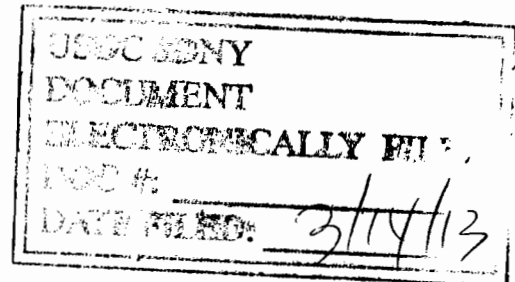
-v-

NEW YORK CITY DEPARTMENT OF
CORRECTION; CAPTAIN SALMON,
Shield # 10315; and DR. DORA SCHRIRO,
Commissioner, New York City
Department of Corrections,

Defendants.
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10 Civ. 815 (JSR)

ORDER



JED S. RAKOFF, U.S.D.J.

On October 17, 2011 the Honorable Michael H. Dolinger, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned case recommending that the Court deny the plaintiff's motion for default judgment. By letter dated October 20, 2011, plaintiff submitted his objections to the October 17, 2011, Report and Recommendation. After considering the entire matter de novo, on February 8, 2012, the Court issued an Order that adopted entirely Magistrate Judge Dolinger's October 17, 2011 Report and Recommendation and denied plaintiff's motion for default judgment.

Meanwhile, on November 21, 2011, plaintiff filed a second motion for default judgment that was substantively very similar to the first. Magistrate Judge Dolinger issued a Report and Recommendation regarding this second motion for default judgment on November 30, 2011, which recommended that the Court deny plaintiff's second motion for default judgment as well. On December 22, 2011, the Court granted plaintiff an extension of time in which to file

his objections to this second Report and Recommendation, and thus allowed plaintiff to file any objections by January 27, 2012.

Plaintiff belatedly filed an affidavit on February 7, 2012, arguing in conclusory fashion that both summary judgment and default judgment should be granted.

In light of the background and for the avoidance of doubt, the Court has now reconsidered the entire matter de novo and finds itself in complete agreement with Magistrate Dolinger's November 30, 2011, Report and Recommendation, which the Court hereby adopts by reference. Accordingly, the Court hereby denies plaintiff's second motion for default judgment and directs the Clerk of the Court to close document number 46 on the docket of this case.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
March 11, 2013